

LORETTA E. LYNCH
Attorney General of the United States
LAURA E. DUFFY
United States Attorney
GLEN F. DORGAN
Special Attorney to the Attorney General
California Bar No. 160502
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, California 92101
Tel: (619) 546-7665 Fax: (619) 546-7751
Email: glen.dorgan@usdoj.gov

Attorneys for the Third-Party Defendant United States of America

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARGARET KEIPER, *et al.*,

Plaintiffs,

v.

VICTOR VALLEY TRANSIT
AUTHORITY, *et al.*,

Defendants.

VICTOR VALLEY TRANSIT
AUTHORITY, *et al.*,

Third-Party Plaintiffs,

v.

UNITED STATES OF AMERICA,

Third-Party Defendant.

CASE NO. 5:15-cv-00703-BRO-SP

**JOINT *EX PARTE* MOTION FOR
ORDER EXTENDING TIME FOR
THIRD-PARTY DEFENDANT TO
ANSWER OR OTHERWISE PLEAD
TO THIRD-PARTY COMPLAINT;
DECLARATION OF GLEN F.
DORGAN RE: LOCAL RULE 7-19.1**

[FRCP 6(b); Local Rule 7-19; Civil
Chambers Rules 6-7]

Hon. Beverly Reid O'Connell

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1 Third-Party Defendant the UNITED STATES OF AMERICA (“the United States”)
 2 and Third-Party Plaintiffs VICTOR VALLEY TRANSIT AUTHORITY, DINORAH
 3 AGUILAR, TRANSDEV SERVICES, INC., and VEOLIA TRANSPORTATION
 4 SERVICES, INC. (“Third-Party Plaintiffs”), by and through their attorneys of record,
 5 jointly move for an order extending the time, through and including **November 30, 2015**,
 6 in which the United States may answer or file a responsive pleading to the Third-Party
 7 Plaintiffs’ Third-Party Complaint. The parties respectfully submit that good cause exists
 8 for the requested relief based on the following:

9 1. Federal Rule of Civil Procedure 6(b)(1) provides discretionary authority to
 10 enlarge time “with or without motion or notice.” Authority to enlarge time naturally
 11 encompasses the power to designate the proper time for response to a complaint.

12 2. Third-Party Plaintiffs filed their Amended Third Party Complaint on or about
 13 July 28, 2015, and named the United States as a Third-Party Defendant on various claims,
 14 including indemnity and contribution, arising out of a traffic collision that occurred on a
 15 by-pass road adjacent to the Fort Irwin National Training Center. The United States’
 16 responsive pleading is presently due on or about October 13, 2015.

17 3. The parties have agreed to an extended deadline of November 30, 2015,
 18 based, in part, on the scheduling order issued in a related matter. The instant case (Case
 19 No. 15-cv-00703) is related to two other cases, *Chestnut* (Case No. 15-cv-00762) and
 20 *Aguilar* (Case No. 15-cv-01481) (collectively “the Related Cases”).¹ An unopposed
 21 motion to consolidate the Related Cases is presently on calendar for October 19, 2015.
 22 Pending the resolution of the motion to consolidate, each of the cases is subject to separate
 23 scheduling orders. The United States is evaluating whether to file a motion to dismiss the
 24 Third-Party Complaints in the Related Cases. In reviewing the scheduling orders, the
 25 earliest deadline for filing a motion to dismiss was set by Minute Order [Doc. # 34] in
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27
 28 ¹ The United States is concurrently filing an identical Joint Motion for Extension to
 Respond to Complaint in *Chestnut* and *Aguilar*.

1 *Aguilar*, and the Order requires that all motions to dismiss “be filed to be heard on or
2 before December 28, 2015.” Because Local Rule 6-1 requires 28 days’ notice for all
3 motions, the last date for filing a motion to dismiss in *Aguilar* is November 30, 2015.

4 4. The United States’ counsel has not yet completed its investigation, is not yet
5 in receipt of all of the documentation from the federal agency involved, and requires
6 additional time to evaluate and prepare a motion to dismiss, if warranted. Accordingly, the
7 parties jointly request that the Court extend the time in which the United States may
8 answer or file a responsive pleading through and including **November 30, 2015**.

9 5. The United States has not previously requested an extension of time in this
10 matter, and the parties do not anticipate that the short proposed extension will cause any
11 undue delay or prejudice to any party.

12 Date: October 9, 2015

Respectfully submitted,

13 LORRETTA E. LYNCH, Attorney General
14 LAURA E. DUFFY, United States Attorney

15 By s/ Glen F. Dorgan
16 GLEN F. DORGAN
Special Attorney to the Attorney General
Attorneys for the United States

17 Date: October 9, 2015

Respectfully submitted,

18 WEINBERG, WHEELER, HUDGINS
19 GUNN & DIAL, LLC

20 By s/ David S. Kahn
21 DAVID S. KAHN
Attorneys for Third-Party Plaintiffs

22 Pursuant to Local Rule 5-4.3.4(a)(2)(i), I certify that the content of this document is
23 acceptable to counsel for the Third-Party Plaintiffs and that I have obtained authorization
24 from David S. Kahn to affix his signature to this document.

25 Date: October 9, 2015

26 By s/ Glen F. Dorgan
27 GLEN F. DORGAN
Special Attorney to the Attorney General
28 Attorneys for the United States

DECLARATION OF GLEN F. DORGAN RE: LOCAL RULE 7-19.1

I, Glen F. Dorgan, declare as follows:

1. I am an Assistant United States Attorney and counsel for Third-Party Defendant, the United States of America, in the above-captioned matter. I have personal knowledge of the following facts and, if called as a witness, could and would competently testify thereto.

2. I have conferred with the attorneys who have appeared in the Related Cases and have advised them of the date and substance of this joint *ex parte* motion. In addition to David S. Kahn, counsel for the Third-Party Plaintiffs, who is a signatory to this motion, the following attorneys have advised that they have no objection to the requested relief:

Plaintiffs' Counsel	Defense Counsel
Martin D. Gross [Case 15-cv-00703] Law Offices of Martin D. Gross 2001 Wilshire Boulevard, Ste. 205 Santa Monica, CA 90403 (310) 453-8320 martin@lawgross.com Counsel for Margaret Keiper and Dail Keiper, Jr., individually and as successors-in-interest to Dail Keiper, Sr., deceased	John S. Williamson [Cases 15-cv-00703, 15-cv-00762, and 15-cv-01481] Williamson Law Group 1851 East First St., Ste. 1225 Santa Ana, CA 92705 (657) 229-7400 jwilliamson@williamsonlawgroup.net Counsel for Defendants Steven Kilty and FBN Transportation, LLC
Douglas F. Welebir [Case 15-cv-00762] Welebir Tierney & Weck 2068 Orange Tree Lane, Ste. 215 Redlands, CA 92374 (909) 335-0444 dfw@wtw-law.com Counsel for Michael Chestnut, Misiona Tusieseina, and Pedro Miranda	
Kevin L. Elder [Case 15-cv-01481] Penney & Associates 6536 Lonetree Blvd. Rocklin, CA 95765 (916) 786-7662 kelder@penneylawyer.com Counsel for Jesus Aguilar, Naiomi Bridgette, Jermaine Ratliff, a minor, by and through his Guardian Ad Litem, Naiomi Bridgette	

1 I declare under penalty of perjury under the laws of the United States of America
2 that the foregoing is true and correct.

3 Executed this 9th day of October, 2015, at San Diego, California.

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5 s/ Glen F. Dorgan
6 GLEN F. DORGAN
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